







Highlights of the Agreement

- Effective for production periods beginning July 1, 2008
- Tax Commissioner establishes Trust and Non-Trust ratio for each spacing unit
 - Based on BIA data & assistance
 - Determining factor is trust mineral acres in spacing unit



Office of State Tax Commissioner

Tax Rates

- Tax Rates for Production from Trust Lands and Non-Trust Lands
 - Gross Production Tax Rate of 5%
 - Oil Extraction Tax Rate of 6.5%
 - Gas Tax Rate same as NDCC Section 57-51-02.2 (\$.1476 per MCF for FY 09)



Office of State Tax Commissioner

Tribal Fees

- Agreement provides for a one time \$60,000 TERO fee and \$40,000 Tribal Application fee per well.
- The fees are payable to the Tribe and are NOT collected and administered by the Office of State Tax Commissioner.
- Fees are applicable if the well's spacing unit is comprised of a majority of trust land.



Office of State Tax Commissioner

Tax Rates – 4 Scenarios

1. Drilled and completed prior to agreement taking effect
2. Drilled prior to the agreement but completed after the agreement taking effect
3. Drilled and completed during the effect of the agreement
4. Drilled during the effect of the agreement but completed after the agreement lapses



Office of State Tax Commissioner

Revenue Sharing – Trust Lands

- Oil and gas tax revenue sharing from production on Trust Lands
 - 50% of total allocated and paid to the Tribe
 - 50% of total allocated and paid to the State and political subdivisions based on statutory distribution formulas



Office of State Tax Commissioner

Revenue Sharing – Non-Trust Lands

- Oil and gas tax revenue sharing from production on Non-Trust Lands
 - 20% of gross production taxes allocated and paid to the Tribe
 - 80% of gross production taxes and 100% of oil extraction taxes allocated and paid to the State and political subdivisions based on statutory distributions formulas



Office of State Tax Commissioner

Administrative Procedures & Filings

- Form T-84
- Well location
 - Well name
 - Surface location
 - Description of the drilling/spacing unit



Office of State Tax Commissioner

Administrative Procedures & Filings

- Tax Department Order
 - Well name
 - Pool name
 - Legal Description
 - Total acres
 - Trust vs. non-trust ratio of mineral acres
 - Tax codes



Office of State Tax Commissioner

Administrative Procedures & Filings

- Tax Department Order Sent To
 - Producer & Purchaser of Record
- Order Information Sent To
 - Tribe
 - Tribal Employment Rights Office (TERO)
 - Industrial Commission



Office of State Tax Commissioner

For More Information

- Contact the Office of State Tax Commissioner
 - oiltax@state.nd.us
 - www.nd.gov/tax
 - 701.328.2705 or 701.328.3657
 - 600 E Boulevard Ave, Dept. 127
Bismarck ND 58505-0599



Office of State Tax Commissioner

Schedule T-84
(July 2008)

AMENDED ☐ Attach a copy of the North Dakota Industrial Commission approved completion report, recompletion report, or a copy of the spacing order applicable to the reported change.

Date 9/1/2008

API No. 33 - 05500999

[illegible]

T84 FILING INSTRUCTIONS

INTRODUCTION:

The North Dakota Office of State Tax Commissioner (Commissioner) is the administrator of oil and gas taxes subject to the Tribal Oil Agreement signed by the State of North Dakota and the Three Affiliated Tribes of the Fort Berthold Reservation. Schedule T-84 is intended to provide the necessary ownership interest information on wells drilled within the boundaries of the Fort Berthold Reservation. This information will be used to determine the Tribal and non-Tribal interest ratios for tax rate purposes and subsequent distributions of the tax revenue. These instructions are designed to provide the necessary information needed to submit the Schedule T-84. This form is available on the Commissioner's website at www.nd.gov/tax. You must use the form designed by the Commissioner, other variations of the form will not be accepted.

INSTRUCTIONS:

1. **A Schedule T-84 is required for each original well completion; an amended Schedule T-84 is required for any change to the original reported information.**
2. **Each well must be reported on a separate Schedule T-84.**
3. Check the appropriate original or amended box.
4. **Do not use hyphens** in Federal ID or API numbers.
5. Provide the complete well name and the file number assigned by the North Dakota Industrial Commission.
6. API numbers are to include the 3 character county code (**enter leading 0's**) and the 5 character lease code.
Do not include the state code 33 (i.e. 01201234).
7. Provide the legal description for the **actual surface location** of the well.
8. Check the **appropriate drilling or spacing unit** box and provide the legal description.
 - a. Drilling unit: The area assigned in the granting of a well permit.
 - b. Spacing unit: The area allocated to a well under a Well Spacing Order.
9. Provide the total acres in the drilling or spacing unit (United States General Land Office acres).
10. Provide the completed formation pool name as provided by the North Dakota Industrial Commission.
11. **Use multiple entries as necessary.**
12. **Attach supporting documentation.**
13. **The Schedule T-84 can be submitted electronically by attaching the file to an e-mail message and forwarding it to oiltax@nd.gov, or by mailing it to the Commissioner's office at the address below.**

CONTACTS:

Taxpayer Assistance (701) 328-2705

FAX Number (701) 328-1942

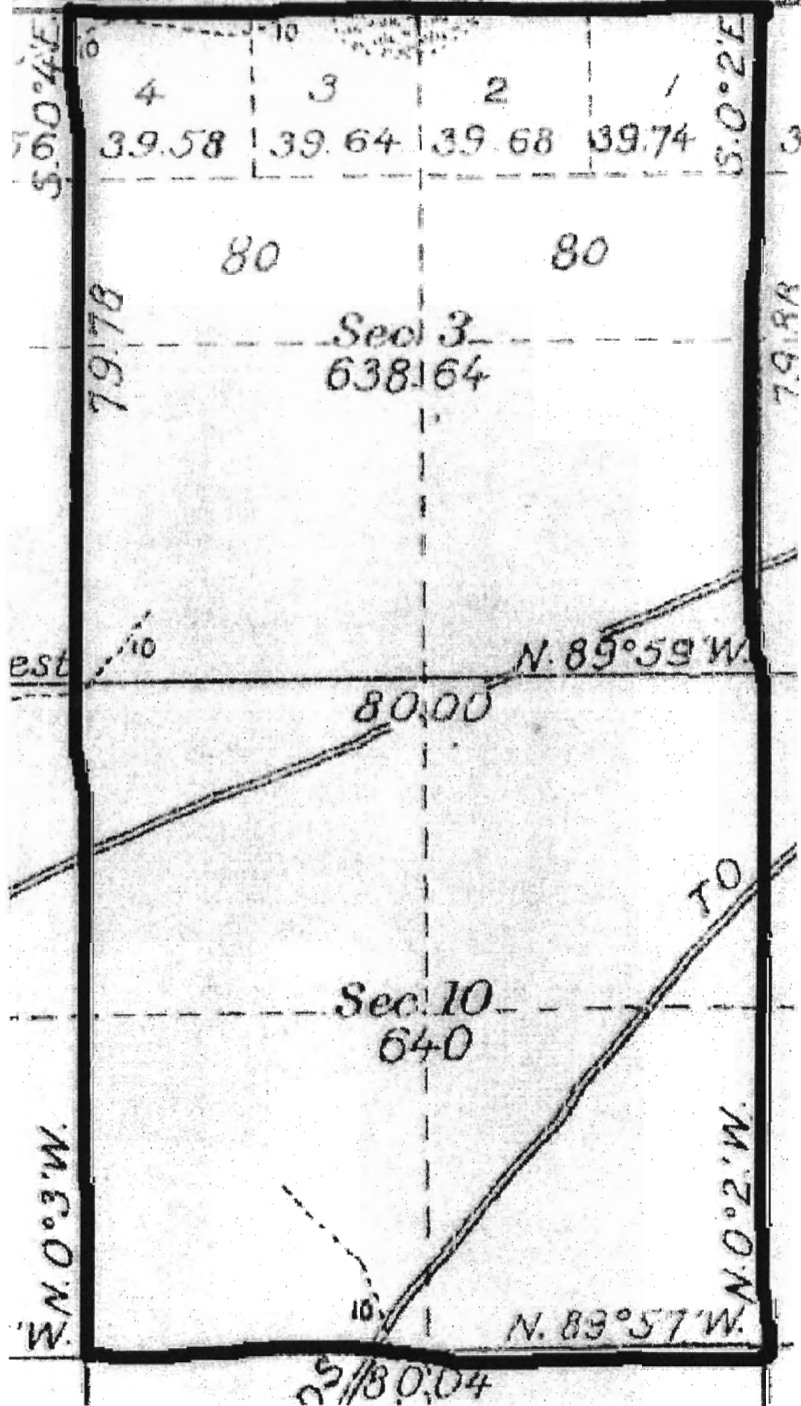
E-mail oiltax@nd.gov

Web Site Address www.nd.gov/tax

Mailing Address:

North Dakota Office of State Tax Commissioner
Oil and Gas Tax Section
600 E. Boulevard Ave.
Bismarck, ND 58505-0599

9°59'E.





APPLICATION FOR PERMIT TO DRILL HORIZONTAL WELL - FORM 1H

INDUSTRIAL COMMISSION OF NORTH DAKOTA
OIL AND GAS DIVISION
600 EAST BOULEVARD DEPT 405
BISMARCK, ND 58505-0840
SFN 54269 (04-2008)

PLEASE READ INSTRUCTIONS BEFORE FILLING OUT FORM.
PLEASE SUBMIT THE ORIGINAL AND ONE COPY.

Type of Work	Type of Well Oil & Gas	Approximate Date Work Will Start	Confidential Status
Operator		Telephone Number	
Address		City	State Zip Code
<input type="checkbox"/> Notice has been provided to the owner of any permanently occupied dwelling within 1,320 feet.		<input type="checkbox"/> This well is not located within five hundred feet of an occupied dwelling.	

WELL INFORMATION (If more than one lateral proposed, enter data for additional laterals on page 2)

Well Name		Well Number	
Surface Footages F L F L	Qtr-Qtr	Section	Township N Range W County
Longstring Casing Point Footages F L F L	Qtr-Qtr	Section	Township N Range W County
Longstring Casing Point Coordinates From Well Head From WH From WH	Azimuth °	Longstring Total Depth Feet MD Feet TVD	
Bottom Hole Footages From Nearest Section Line F L F L	Qtr-Qtr	Section	Township N Range W County
Bottom Hole Coordinates From Well Head From WH From WH	KOP Lateral 1 Feet MD	Azimuth Lateral 1 °	Estimated Total Depth Lateral 1 Feet MD Feet TVD
Latitude of Well Head ° ' "	Longitude of Well Head ° ' "	NAD Reference	Description of (Subject to NDIC Approval)
Ground Elevation Feet Above S.L.	Acres in Spacing/Drilling Unit	Spacing/Drilling Unit Setback Requirement Feet N/S Feet E/W	Industrial Commission Order
North Line of Spacing/Drilling Unit Feet	South Line of Spacing/Drilling Unit Feet	East Line of Spacing/Drilling Unit Feet	West Line of Spacing/Drilling Unit Feet
Objective Horizons			Pierre Shale Top
Proposed Surface Casing	Size - "	Weight Lb./Ft.	Depth Feet
Proposed Longstring Casing	Size - "	Weight(s) Lb./Ft.	Longstring Total Depth Feet MD Feet TVD
Base of Last Salt (If Applicable) Feet		NOTE: Intermediate or longstring casing string must be cemented above the top Dakota Group Sand.	
Proposed Logs			
Drilling Mud Type (Vertical Hole - Below Surface Casing)		Drilling Mud Type (Lateral)	
Survey Type in Vertical Portion of Well Every 100 Feet	Survey Frequency: Build Section Feet	Survey Frequency: Lateral Feet	MWD Contractor

COMMENTS, ADDITIONAL INFORMATION, AND/OR LIST OF ATTACHMENTS

NOTE: A Gamma Ray log must be run to ground surface and a CBL must be run on intermediate or longstring casing string if set.

Surveys are required at least every 30 feet in the build section and every 90 feet in the lateral section of a horizontal well. Measurement inaccuracies are not considered when determining compliance with the spacing/drilling unit boundary setback requirement except in the following scenarios: 1) When both the angle between the well bore and the respective boundary is 10 degrees or less; or 2) If industry standard methods and equipment are not utilized. Consult the applicable field order for exceptions.

If measurement inaccuracies are required to be considered, a 2° MWD measurement inaccuracy will be applied to the horizontal portion of the well bore. This measurement inaccuracy is applied to the well bore from KOP to TD.

REQUIRED ATTACHMENTS: Certified surveyor's plat, horizontal section plat, estimated geological tops, proposed mud/cementing plans, directional plot/plan, \$100 fee.

Lateral 2

KOP Lateral 2 Feet MD	Azimuth Lateral 2 °	Estimated Total Depth Lateral 2 Feet MD Feet TVD		KOP Coordinates From Well Head From WH From WH	
Formation Entry Point Coordinates From Well Head From WH From WH		Bottom Hole Coordinates From Well Head From WH From WH			
KOP Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County
Bottom Hole Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County

Lateral 3

KOP Lateral 3 Feet MD	Azimuth Lateral 3 °	Estimated Total Depth Lateral 3 Feet MD Feet TVD		KOP Coordinates From Well Head From WH From WH	
Formation Entry Point Coordinates From Well Head From WH From WH		Bottom Hole Coordinates From Well Head From WH From WH			
KOP Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County Q
Bottom Hole Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County

Lateral 4

KOP Lateral 4 Feet MD	Azimuth Lateral 4 °	Estimated Total Depth Lateral 4 Feet MD Feet TVD		KOP Coordinates From Well Head From WH From WH	
Formation Entry Point Coordinates From Well Head From WH From WH		Bottom Hole Coordinates From Well Head K From WH & From WH			
KOP Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County
Bottom Hole Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County

Lateral 5

KOP Lateral 5 Feet MD	Azimuth Lateral 5 °	Estimated Total Depth Lateral 5 Feet MD Feet TVD		KOP Coordinates From Well Head From WH From WH	
Formation Entry Point Coordinates From Well Head From WH From WH		Bottom Hole Coordinates From Well Head From WH From WH			
KOP Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County
Bottom Hole Footages From Nearest Section Line F L F L		Qtr-Qtr	Section	Township N	Range W County

I hereby swear or affirm the information provided is true, complete and correct as determined from all available records.			Date
Signature	Printed Name	Title	
Email Address			
Witness Signature	Witness Printed Name	Witness Title	

FOR STATE USE ONLY

Permit and File Number	API Number 33 - -
Field	
Pool	Permit Type

FOR STATE USE ONLY

Date Approved
By
Title



APPLICATION FOR PERMIT TO DRILL - FORM 1

INDUSTRIAL COMMISSION OF NORTH DAKOTA
OIL AND GAS DIVISION
600 EAST BOULEVARD DEPT 405
BISMARCK, ND 58505-0840
SFN 4615 (08-2008)

PLEASE READ INSTRUCTIONS BEFORE FILLING OUT FORM.

PLEASE SUBMIT THE ORIGINAL AND ONE COPY.

Type of Work	Type of Well	Approximate Date Dirt work Will Start	Confidential Status
Operator		Telephone Number	
Address	City	State	Zip Code
Name of Surface Owner or Tenant			
Address	City	State	Zip Code

WELL INFORMATION

☐ Notice has been provided to the owner of any permanently occupied dwelling within 1,320 feet. ☐ This well is not located within five hundred feet of an occupied dwelling.

Well Name				Well Number			
At Surface F L F L		Qtr-Qtr	Section	Township N	Range W	County	
If Directional, Top of Pay F L F L		Qtr-Qtr	Section	Township N	Range W	County	
Proposed Bottom Hole Location F L F L		Qtr-Qtr	Section	Township N	Range W	County	
Latitude of Well Head ° ' "		Longitude of Well Head ° ' "		NAD Reference	Description of (Subject to NDIC Approval)		
Ground Elevation Feet Above S.L.	Acres in Spacing/Drilling Unit		Spacing/Drilling Unit Setback Requirement Feet			Industrial Commission Order	
Objective Horizons						Pierre Shale Top	
Proposed Surface Casing	Size -	Weight " Lb./Ft.	Depth Feet	Cement Volume Sacks	NOTE: Surface hole must be drilled with fresh water and surface casing must be cemented back to surface.		
Proposed Longstring Casing	Size -	Weight(s) " Lb./Ft.	Longstring Total Depth Feet MD Feet TVD		Cement Volume Sacks	Cement Top Feet	Top Dakota Sand Feet
Base of Last Salt (If Applicable) Feet	Estimated Total Depth (feet) Feet MD Feet TVD		Drilling Mud Type (Vertical Hole - Below Surface Casing)				
Proposed Logs							
Comments							

I hereby swear or affirm that the information provided is true, complete and correct as determined from all available records.			Date
Signature	Printed Name	Title	
Email Address(es)			

FOR STATE USE ONLY

Permit and File Number	API Number 33-
Field	
Pool	Permit Type

FOR STATE USE ONLY

Date Approved
By
Title

REQUIRED ATTACHMENTS - VERTICAL: Certified surveyor's plat, estimated geologic tops, proposed mud/cementing plans, \$100 fee.
IF DIRECTIONAL - ALSO SUBMIT: Horizontal section plat and directional plot/plan.

APPLICATION FOR PERMIT TO DRILL – FORM 1
SFN 4615

1. Please refer to Section 43-02-03-16 of the North Dakota Administrative Code (NDAC) regarding an application for permit to drill.
2. Well-site preparation other than surveying and staking is forbidden prior to approval of an application for permit to drill.
3. Verbal approval may be given for site preparation by the Director in extenuating circumstances although no drilling activity shall commence until the application is approved.
4. The application for permit to drill shall be accompanied by a bond pursuant to Section 43-02-03-15 NDAC or the applicant must have previously filed such bond with the Commission, otherwise the application is incomplete.
5. Any incomplete application for permit to drill received by the Commission has no standing and shall not be deemed filed until it is completed.
6. The application for a permit to drill a well shall be accompanied by an accurate plat certified by a registered surveyor showing the location of the proposed well with reference to the nearest lines of a governmental section.
7. The application for permit to drill a directional or horizontal well shall be accompanied by an accurate plat certified by a registered surveyor showing the internal dimensions of the spacing or drilling unit.
8. The application for permit to drill shall be accompanied by a drilling prognosis which shall include the following: the proposed total depth (including measured depth if appropriate) to which the well will be drilled, the estimated depth to the top of important geological markers, the estimated depth to the top of objective horizons, the proposed mud program, the proposed casing program including size and weight, the proposed depth at which each casing string is to be set, the proposed amount of cement to be used, and the estimated top of cement.
9. The application for permit to drill shall be accompanied by a permit fee of one hundred dollars.
10. The approved application for permit to drill shall terminate and be of no further force and effect unless a well is drilling, or has been drilled, below surface casing on the first anniversary of the date of issuance or renewal.
11. The original and one copy of this report shall be filed with the Industrial Commission of North Dakota, Oil and Gas Division, 600 East Boulevard, Dept. 405, Bismarck, ND 58505-0840.



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

September 18, 2008

Tax Contact
Acme Oil
1234 Main Street
Bismarck, ND 58501

RE: Reporting Procedures Pursuant to Tribal and State Oil and Gas Tax Agreement
API Number: 33-055-00999
Well Name: Oil Well #1

The State of North Dakota ("State") and the Three Affiliated Tribes ("Tribes") have entered into an oil and gas tax agreement ("Agreement") authorized by North Dakota Century Code ("N.D.C.C.") Chapter 57-51.2. The Agreement provides for the uniform taxation of oil and gas production within the exterior boundaries of the Fort Berthold Indian Reservation ("EBIR") and streamlining of the Tribal and State tax systems into one system to be administered by the Office of State Tax Commissioner ("Tax Commissioner"). The Agreement is effective for production periods beginning July 1, 2008.

Based on the terms of the Agreement, for each well drilled and completed within the boundaries of the FBIR, taxation and revenue sharing will be proportionately based on Trust and Non-Trust land mineral acre interests for each spacing unit. Trust lands are defined as those mineral acres held in trust by the United State for the Tribes or an individual tribal member. Non-Trust lands are defined as all mineral acres not classified as Trust. The Tax Commissioner is responsible for calculations of the Trust and Non-Trust ratios based on records obtained from the North Dakota Industrial Commission ("N.D.I.C.") and the Bureau of Indian Affairs in Aberdeen, South Dakota.

Trust and Non-Trust Ratio Determination

- Well name: Oil Well #1
- API number: 33-055-00999
- N.D.I.C. well file number: 12345
- Legal description of well surface location:
 - Qtr-Qtr: NWNW Section: 10 Township: 150 Range: 090
- Pool name: Bakken
- Legal description of pool spacing unit:
 - Qtr-Qtr: SEC Section: 03 Township: 150 Range: 090 and
 - Qtr-Qtr: SEC Section: 10 Township: 150 Range: 090

Total acres in spacing unit: 1,278.64

○ Trust acres: 719.22 Non-Trust acres: 559.42

• Trust Ratio: 0.56248827 Non-Trust Ratio: 0.43751173

Reporting Requirements

1. Wells located within the boundaries of the FBIR must be reported using the individual API number assigned by the N.D.I.C. Do not report a well as part of a group or unit.
2. Separate sequence entries must be reported for each API using the assigned pool codes and corresponding tax rates established for the Trust and Non-Trust interest ratios in the spacing unit.
3. Enter the correct pool code in the box provided on the T-12 worksheet. This well produces from the **Bakken** pool.
 - a. The pool code for Trust interests is 451. The applicable well code for oil extraction tax reporting is TT which is at the tax rate of 6.5%.
 - b. The pool code for Non-Trust interests is 351. The applicable well code for oil extraction tax reporting is FE which is at the tax rate of 0.0%.
4. Inventory produced prior to July 1, 2008, but purchased or sold on or after that date will be reported using the pool and well codes in effect for those previous periods.
5. Due to the various tax rate issues affecting a well, multiple entries for an API and pool code may be necessary.

Records Maintenance

This letter is addressed to the operator indicated in the Tax Commissioner's files. If this information is not correct, please notify this office immediately. We request that you forward this information to your purchaser to insure correct reporting and tax payment. Adequate records must be maintained to support the volume of oil produced and sold during the exempt period. If you have any questions, please contact our office.

North Dakota Office of State Tax Commissioner
600 East Blvd. Ave.
Bismarck, ND 58505-0599

Phone: (701) 328-2705
Email: oiltax@nd.gov
Website: www.nd.gov/tax

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER
OIL AND GAS POOL NAMES AND TAX CODES
ALPHA LISTING

POOLS	CODE
BAKKEN	51
BAKKEN - FORT BERTHOLD FEE	351
BAKKEN - FORT BERTHOLD TRUST	451
BAKKEN/THREE FORKS	60
BAKKEN/THREE FORKS/DEVONIAN	18
BIG SNOWY	30
BIRDBEAR	53
BIRDBEAR-DUPEROW	38
BLACK ISLAND	86
CAMBRO/ORDOVICIAN	88
CHARLES	41
DAKOTA	10
DAKOTA - FORT BERTHOLD FEE	310
DAKOTA - FORT BERTHOLD TRUST	410
DAWSON	3
DAWSON BAY	56
DAWSON BAY/DEVONIAN	20
DEADWOOD	4
DEVONIAN	50
DUPEROW	54
EAGLE	12
EAGLE G. F.	11
EAGLE/JUDITH RIVER	13
GUNTON	87
GUNTON/ORDIVICAN	19
HEATH	31
HEATH/MADISON	96
ICEBOX	85
INTERLAKE	71
KIBBEY	32
LODGEPOLE	43
LODGEPOLE - FORT BERTHOLD FEE	343
LODGEPOLE - FORT BERTHOLD TRUST	443
LODGEPOLE/BAKKEN	46
MADISON	40
MADISON - FORT BERTHOLD FEE	340
MADISON - FORT BERTHOLD TRUST	440
MIDALE	44
MIDALE/NESSON	47
MINNELUSA	25

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER
OIL AND GAS POOL NAMES AND TAX CODES
ALPHA LISTING

POOLS	CODE
MINNELUSA (NITROGEN)	24
MISSION CANYON	42
MISSION CANYON/MADISON	22
NORTH RED RIVER B	75
ORDOVICIAN	80
PIERRE	14
PLANT	92
PRAIRIE	57
PRECAMBRIAN	1
RATCLIFFE	39
RED RIVER	83
RED RIVER - FORT BERTHOLD FEE	383
RED RIVER - FORT BERTHOLD TRUST	483
RED RIVER B	79
RED RIVER C	78
RIVAL	48
ROUGHLOCK	84
SANISH	59
SANISH - FORT BERTHOLD FEE	359
SANISH - FORT BERTHOLD TRUST	459
SHERWOOD	45
SILURIAN	70
SOURIS RIVER	55
SOUTH RED RIVER B	76
SPEARFISH	21
SPEARFISH/CHARLES	98
SPEARFISH/MADISON	97
STONEWALL	81
STONY MOUNTAIN	82
SWD	91
THREE FORKS	52
TYLER	26
TYLER A	27
UNNAMED	99
WASTE	93
WEST RED RIVER	77
WINNIPEG	89
WINNIPEG/DEADWOOD	90
WINNIPEGOSIS	58



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

**NORTH DAKOTA
OIL EXTRACTION TAX INCENTIVE SUMMARY**

New Well Incentives

- EN A new vertical well is eligible for a 15-month oil extraction tax exemption. (Suspended)
- HE A new horizontal well is eligible for a 24-month oil extraction tax exemption. (Suspended)
- FE A new well drilled and completed on Indian land is eligible for a 60-month oil extraction tax exemption.
- NW A new well is eligible for a reduced oil extraction tax rate of 4%. (Suspended)
- BN A new well drilled and completed in the Bakken formation, between July 1, 2007 and June 30, 2008, is eligible for a reduced oil extraction tax rate of 2% for the earlier of 18 months or 75,000 barrels.

Horizontal Re-Entry Incentive (Suspended)

- HR A horizontal reentry well, which is a vertical well bore reentered and recompleted horizontally, is eligible for a 9-month oil extraction tax exemption for each reentry.

Inactive Well Incentive (Suspended)

- IE A well that has been inactive for two-years is eligible for a 10-year oil extraction tax exemption.

Stripper Well Incentives

- S1 A stripper well/property, with average daily production of oil not exceeding 10 barrels per day during a 12 month qualifying period, from a depth of 6,000 feet or less, is exempt from oil extraction tax.
- S2 A stripper well/property, with average daily production of oil not exceeding 15 barrels per day during a 12 month qualifying period, from a depth of more than 6,000 feet, but not more than 10,000 feet, is exempt from oil extraction tax.
- S3 A stripper well/property, with average daily production of oil not exceeding 30 barrels per day during a 12 month qualifying period, from a depth of more than 10,000 feet, is exempt from oil extraction tax.

Workover Incentives (Suspended)

- WP A work-over project well is eligible for a 12-month oil extraction tax exemption starting from the first day of the third month after completion of the work-over.
- W4 A work-over project, completed on a well originally reported with a WW well code is eligible for a reduced oil extraction tax rate of 4% after the 12-month exempt period.

Enhanced Recovery Incentives

Rate Reduction

- SR A secondary recovery project well eligible for a reduced oil extraction tax rate of 4%. (Suspended)
- TR A tertiary recovery project well eligible for a reduced oil extraction tax rate of 4%. (Suspended)

Incremental Exemption

- R1 Used by producers for qualified enhanced recovery reporting of production subject to 5% gross production and 0% oil extraction tax.
- R2 Used by producers for qualified enhanced recovery reporting of production subject to 5% gross production and 4% oil extraction tax. (Suspended)
- R3 Used by producers for qualified enhanced recovery reporting of production subject to 5% gross production and 6.5% oil extraction tax.

Full Rate

- WW A well not eligible for an oil extraction tax exemption or rate reduction.
- PT A well eligible for an oil extraction tax exemption or rate reduction that has been suspended, returning the oil extraction tax rate to the full 6.5%.
- TT A well subject to the Tribal tax rate of 6.5% on trust lands.

Oil and Gas Tax Agreement Between The Three Affiliated Tribes And State of North Dakota

This Oil and Gas Tax Agreement ("Agreement") is between the State of North Dakota and the Three Affiliated Tribes ("Tribes"). The State through its Office of the Governor ("the State") and the Tribes through their Tribal Business Council, the duly established governing body of the Tribes, hereby agree to the following:

A. Statement of Intent

The intent of this Agreement is to:

1. Provide for the mutual recognition and respect by the State and Tribes of one another's sovereignty;
2. Give recognition to the respective tax jurisdiction of the State and Tribes in a mutually beneficial way that does not compromise either party's right to assert a position upon termination of the Agreement;
3. Provide for an efficient method of taxation and regulation of oil and gas production and extraction within the exterior boundaries of the Fort Berthold Reservation including lands held in trust by the United States and lands held in fee simple status;
4. Distribute the revenue from those taxes in an agreed upon manner that reflects the governmental roles of the State and the Tribes as sovereign parties to this Agreement; and
5. Avoid litigation relating to each party's jurisdiction to impose its taxes on oil and gas production and extraction within the exterior boundaries of the Fort Berthold Reservation.

B. Sovereign Immunity

Nothing in this Agreement shall be interpreted as diminishing or enhancing the sovereign rights of the parties, including the sovereign immunity of the parties, except as may be specifically provided herein, nor shall this Agreement be permitted to be used in any way by either party in any litigation brought by any person including the parties to this Agreement other than with respect to enforcement of this Agreement. In the event of a conflict with any other provision of this Agreement, the terms of Paragraph B shall prevail and control.

C. Acknowledgment of Authority

1. Tribal Authority
 - a. The Tribes have jurisdiction to impose certain taxes on the Fort Berthold Indian Reservation.
 - b. The Tribal Business Council, under § 5 (d) of Article VI of the Constitution and Bylaws of the Three Affiliated Tribes, has authority to enter into this Agreement with the State of North Dakota.
 - c. The parties specifically acknowledge that the Tribes have jurisdiction to impose production and extraction taxes on oil and gas activities on trust lands within the exterior boundaries of the Fort Berthold Reservation.
2. State Authority
 - a. The State, subject to inherent limitations on Indian Reservations, asserts jurisdiction to tax oil and gas activities on the Fort Berthold Reservation.
 - b. The Governor, under North Dakota Century Code § 57-51.2-01, has authority to enter into this Agreement with the Tribes relating to the taxation of oil and gas production and extraction within the exterior boundaries of the Fort Berthold Reservation.
 - c. The parties specifically acknowledge that the State has jurisdiction to impose production and extraction taxes on oil and gas activities on lands within the exterior boundaries of the Fort Berthold Reservation.

D. Oil and Gas Taxes included in this Agreement.

For the purposes of this Agreement, the following provisions apply:

1. The total Tribal and State tax rate attributable to production and extraction of oil from Trust Lands must be eleven and one half percent (11.5%). The total Tribal and State tax rate attributable to production of gas from Trust Lands must be the rate provided in N.D.C.C. § 57-51-02.2.
2. The total State tax rate attributable to production and extraction of oil from Non-Trust Lands must be eleven and one half percent (11.5%) subject to applicable exemptions in N.D.C.C. chapters 57-51 and 57-51.1. The total State tax rate attributable to production of gas from Non-Trust Land must be the rate provided in N.D.C.C. § 57-51-02.2.
3. Exemptions
 - a. All exemptions under the United States Constitution, North Dakota Constitution, or federal law, apply to oil and gas production and

extraction from wells located within the exterior boundaries of the Fort Berthold Reservation.

- b. Oil and gas production and extraction from wells located on Trust Lands within the exterior boundaries of the Fort Berthold Reservation are entitled to all exemptions in N.D.C.C. chapters 57-51 and 57-51.1 except for those in subsections 8 and 9 of N.D.C.C. § 57-51.1-03 (Supp. 2007).
4. Definitions. For the purposes of this Agreement, the following definitions apply:
 - a. "Non-Trust Lands" means all mineral acres in a producing Spacing Unit not classified as Trust Lands.
 - b. "Non-Trust Ratio" means the total mineral acres of Non-Trust Lands in a Spacing Unit divided by the Spacing Unit Acres.
 - c. "Spacing Unit" means the area in each pool assigned to a well for drilling, producing, and peroration purposes in accordance with the State Industrial Commission's rules or orders.
 - d. "Spacing Unit Acres" means the total mineral acres in a producing Spacing Unit.
 - e. "Trust Lands" means all mineral acres in a producing Spacing Unit that are owned by the United States in trust for the Tribes or for an individual tribal member. Trust Lands acreage in a producing Spacing Unit must be determined by the North Dakota Office of the State Tax Commissioner ("State Tax Commissioner") based on records obtained from the Bureau of Indian Affairs in Aberdeen, South Dakota.
 - f. "Trust Ratio" means the total acres of Trust Lands in a Spacing Unit divided by the Spacing Unit Acres.
5. Production from Trust Lands must be determined by multiplying the total production from a Spacing Unit times the Trust Ratio of the Spacing Unit.
6. Production from Non-Trust Lands must be determined by multiplying the total production from a Spacing Unit times the Non-Trust Ratio of the Spacing Unit.
7. The respective tax rate(s) for Trust Lands and Non-Trust Lands must be based on the Trust and Non-Trust Ratios of each producing Spacing Unit.
8. The tax rates and allocations for unknown or unidentified mineral ownership interests in a Spacing Unit must follow the larger of the identifiable Trust Ratio or Non-Trust Ratio in the Spacing Unit, subject to correction based on future identification of the mineral ownership interests. In the event that the identified Trust and Non-Trust Ratios in the Spacing Unit are equal, the tax rates and allocations for the unknown or unidentified mineral ownership interests are equal to the Trust and Non-Trust ratios, subject to correction by the State Tax Commissioner based on future identification of the mineral ownership interests.

as the information becomes available. The revised tax rates will become effective and applied in the next production reporting period following revision.

9. No additional tax and fees will be imposed by the Tribes on any oil and gas activity or interest within the Reservation except for a one-time \$60,000.00 Tribal Employment Rights Office ("TERO") fee on wells on Trust Land and a one-time Tribal Application Fee of \$40,000.00 on wells on Trust Land. TERO employment regulations apply only to wells located on Trust Land. For the purposes of this subsection, a well is determined to be on Trust Land if the majority of the Spacing Unit is comprised of Trust Lands.

E. Administration and Collection of Taxes

1. The State Tax Commissioner is responsible for the administration of the taxes covered by this Agreement. The State Tax Commissioner may use production data by pool from the State Industrial Commission for Trust Lands and Non-Trust Lands covered by this Agreement in addition to other sources of information necessary to ensure compliance with the terms of this Agreement.
2. The Tribes retain exclusive jurisdiction and authority to file and prosecute civil and criminal enforcement actions as needed with respect to the tribal taxes, according to tribal and federal laws, and engage in any collection or enforcement action necessary to implement the requirements of this Agreement.
3. The State and Tribes agree to the imposition of the taxes at the rates set forth in this Agreement. Neither party will adjust, raise or lower the production and extraction taxes on oil and gas activities within the exterior boundaries of the Fort Berthold Reservation during the term of the Agreement.
4. The Tribes will not impose any additional tribal tax or fees on future production of oil and gas on the Fort Berthold Reservation during the term of the Agreement.
5. An oil or gas well drilled and completed during the time this Agreement is in effect will be subject to the terms of this Agreement for the life of the well.
6. The State Tax Commissioner has the authority to offset future distributions to the Tribes to address situations in which refunds of taxes are made to a taxpayer.
7. The Tribes, upon request of the State, may assist the State in the assessment and collection of any tax subject to this Agreement.
8. The State Tax Commissioner retains the authority to administer and enforce the provisions of N.D.C.C. chapters 57-51 and 57-51.1 not in conflict with this Agreement.

F. Remittance and Sharing of Tax Proceeds

1. Tax Proceeds

- a. The State agrees to remit to the Tribes its share of revenues collected in an amount equal to fifty percent (50%) of the total State and Tribal taxes assessed and collected under Subsection (D)(1) of oil and gas production and extraction on Trust Lands.
- b. The State agrees to remit to the Tribes its share of revenues collected in an amount equal to twenty percent (20%) of the total State taxes assessed and collected under Subsection (D)(2) of oil and gas production on Non-Trust Lands.
- c. Within thirty (30) days of the end of the calendar month during which collection of taxes occurs from oil and gas production and extraction covered under this Agreement, the State Tax Commissioner shall determine and certify the payments specified in this subsection to the Office of the State Treasurer. Unless otherwise requested in writing by the Tribes, the remittance must be by state warrant by the Office of the State Treasurer, payable to the order of the Three Affiliated Tribes.
- d. Within (30) days of the end of the calendar month during which collection occurs from oil and gas production and extraction covered under this Agreement, the State Tax Commissioner shall furnish the Tribes a list identifying the source of revenues remitted to the State Tax Commissioner intended for distribution to the Tribes.

G. Administration and Maintenance of Records

1. The Tribes agree to maintain accurate records setting forth information in sufficient detail to allow for verification that Tribally-owned entities are collecting and remitting the correct amount of tax due under this Agreement. The Tribes agree to furnish these records to the State Tax Commissioner upon request.
2. Upon reasonable request of the Tribes, the State Tax Commissioner must make available to the Tribes records of tax filings that relate to the taxes provided for under this Agreement.
3. If the State receives a request for information under the State's Open Records laws pertaining to this Agreement, the State will inform the Tribes of the request and information released.
4. The State agrees to provide the Tribes written notice of any pending changes to the State's taxes covered by this Agreement.

H. Effective Date, Duration, Application, and Termination of the Agreement

1. Effective Date

The parties agree the effective date of this Agreement is July 1, 2008.

2. Duration

This Agreement will remain in effect for a period of twenty-four (24) calendar months after July 1, 2008. The Agreement may be renewed for any period upon the written agreement of the parties.

3. Application

- a. The production from wells located within the exterior boundaries of the Fort Berthold Reservation drilled and completed after the effective date and before the expiration of this Agreement is subject to the taxes imposed by this Agreement for the life of the well. The production from wells located within the exterior boundaries of the Fort Berthold Reservation drilled and completed before the effective date of this Agreement is subject to the taxes imposed by the terms of this Agreement for the duration of the Agreement and any extensions that may be agreed to by the parties under Subsection H(2).
- b. An oil or gas well that is drilled and completed during this Agreement is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.

4. Termination

- a. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty (30) days written notice to the other party.
- b. Before the Agreement is terminated under this provision, the parties will meet and make a good-faith effort to resolve the differences leading to the Notice of Termination. A Notice of Intent to terminate on behalf of the Tribes must be executed by the Tribal Business Council. A Notice of Intent to Terminate of behalf of the State must be executed by the Governor's Office.
- c. Within thirty (30) days of its receipt of a Notice of Termination, the State Tax Commissioner shall notify each known taxpayer affected by the termination by first class mail that it will no longer collect the taxes covered by this Agreement, and the taxpayer should no longer remit to it the affected taxes.

I. Amendments and Waiver

This Agreement may not be modified or amended, nor may compliance with any provision of it be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any modification, amendment, or waiver is sought.

J. SEVERABILITY AND VENUE

Should any part of this Agreement be rendered or declared invalid by the federal District Court for the Western Division of North Dakota, the invalidation of any part or portion of this Agreement will not invalidate the remaining portions, which remain in full force and effect.

K. Notices and Payment

1. Notice

Notice required to be sent to the Three Affiliated Tribes under this Agreement must be sent to:

Tribal Chairperson
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763-9402

Tribal Tax Department
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763-9402

Notice required to be sent to the State under this Agreement must be sent to:

Office of the Governor
State of North Dakota
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0001

Office of the State Tax Commissioner
Supervisor, Oil and Gas Tax Section
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0599

2. Payment

Payment to the Three Affiliated Tribes under this Agreement must be sent to:

Three Affiliated Tribes
Tax Department
404 Frontage Road
New Town, North Dakota 58763-9402

Payment to the State under this Agreement must be sent to:

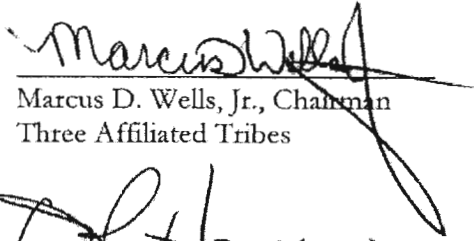
Office of the State Tax Commissioner
Supervisor, Oil and Gas Tax Section
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0599

Either party may change its Notice address by giving written notice of the changes to the other party.

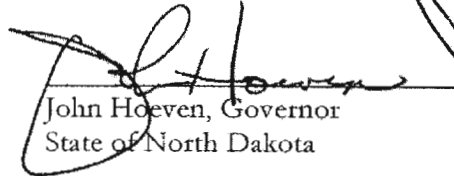
IN WITNESS WHEREOF, the Three Affiliated Tribes and State of North Dakota have caused this Agreement to be executed and delivered by their respective officer, duly authorized.

6/10/08
Date

6/17/08
Date



Marcus D. Wells, Jr., Chairman
Three Affiliated Tribes



John Hoeven, Governor
State of North Dakota



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER

Cory Fong, Commissioner

July 11, 2008

Attention: Producers/Purchasers/Processors

On June 10, 2008, the Three Affiliated Tribes ("Tribes") and the State of North Dakota ("State") entered into an oil and gas tax agreement ("Agreement") that provides for the establishment of a uniform taxation system for oil and gas production within the exterior boundaries of the Fort Berthold Indian Reservation ("FBIR"). This historic Agreement provides for a streamlining of the Tribal and State tax systems into one system administered by the State and will be effective for production periods beginning July 1, 2008. The Tribal and State governments, by entering into this Agreement, hope to encourage development of tribal lands by providing a uniform tax rate structure while recognizing both parties respective tax jurisdiction rights.

The Office of the State Tax Commissioner ("State Tax Commissioner") reviewed the State's administrative obligations under the Agreement and developed reporting procedures required to fulfill those obligations. The following information was used to develop reporting guidelines for the taxation of oil and gas sales and purchases from wells located within the FBIR:

- The State Tax Commissioner will compute, for each well drilled and completed within the FBIR, the mineral acres of Trust and Non-Trust Lands and a Trust and Non-Trust Ratio for each spacing unit. This calculation will be based on records obtained from the Bureau of Indian Affairs in Aberdeen, South Dakota.
 - Trust Lands are defined as all mineral acres in a producing spacing unit held in trust by the United States of America ("USA") for the Tribes or an individual tribal member.
 - Non-Trust Lands are defined as all other mineral acres in a producing spacing unit not classified as Trust Lands.
- Trust Lands – based on the terms of the Agreement, taxation and revenue sharing on a well's allocated Trust Ratio of production will be computed as follows:
 - Oil taxation:
 - Gross production tax rate of 5%; and
 - Oil extraction tax rate of 6.5%.
 - Gas taxation:
 - Gross production tax rate as provided in North Dakota Century Code (N.D.C.C.) § 57-51-02.2
Fiscal year 2009 rate - \$.1476 per mcf.
 - Oil and gas tax exemptions
 - All exemptions under the U.S. Constitution, North Dakota Constitution, or federal law apply, including :
 - Ownership interests paid in trust to USA; and
 - Ownership interests of exempt government agencies.

- All exemptions found in N.D.C.C. chapters 57-51 and § 57-51.1, subject to the trigger limitations contained in those chapters, except
 - N.D.C.C. § 57-51.1-03(8) – Indian Lands; and
 - N.D.C.C. § 57-51.1-03(9) – Bakken new wells shall not apply to Trust Lands.
- Oil and gas revenue sharing:
 - 50% of the gross production and oil extraction taxes collected from Trust Lands must be allocated and paid to the Tribes.
 - 50% of the gross production and oil extraction taxes collected from Trust Lands must be allocated and paid to the State and political subdivisions based on statutory distribution formulas.
- Non-Trust Lands - Based on the terms of the Agreement, taxation and revenue sharing on a well's allocated Non-Trust Ratio of production will be computed as follows:
 - Oil taxation:
 - Gross production tax rate of 5%; and
 - Oil extraction tax rate of 6.5%.
 - Gas taxation:
 - Gross production tax rate as provided in N.D.C.C. § 57-51-02.2.
Fiscal year 2009 rate - \$.1476 per mcf.
 - Oil and gas tax exemptions:
 - All exemptions under the U.S. Constitution, North Dakota Constitution, or federal law apply, including:
 - Ownership interests paid in trust to USA; and
 - Ownership interest of exempt government agencies.
 - All exemptions found in N.D.C.C. chapters 57-51 and § 57-51.1 are available, subject to the trigger limitations contained in those chapters.
 - Oil and gas revenue sharing:
 - 20% of the gross production taxes from Non-Trust Lands must be allocated and paid to the Tribes.
 - 80% of the gross production and 100% of the oil extraction taxes collected from Non-Trust Lands must be allocated and paid to the State and political subdivisions based on statutory distribution formulas.

The State Tax Commissioner has determined that conformance with the requirements of the Agreement may be facilitated without material modification of the existing T12 – Oil Gross Production Tax and Oil Extraction Tax and T13 – Gas Production Tax reports (see “System Changes” at the end of this discussion). The following procedural changes will become effective for production periods beginning July 1, 2008:

- Trust and Non-Trust ratios and their corresponding tax rates will be established for the spacing units of wells drilled and completed within the FBIR, prior to July 1, 2008. These calculations will be based on location and spacing unit information derived from the North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division (NDIC).
- Trust and Non-Trust ratios and their corresponding tax rates will be established for the spacing units of new wells spudded on or after July 1, 2008, within the FBIR, utilizing the drilling unit for the target formation. The operator of a well permitted within the FBIR must submit Schedule T-84 providing the following information to the State Tax Commissioner within ten days of the NDIC's issuance of the approved application to drill. Failure to submit the required information may result in a twenty-five dollar per day failure to file penalty.
 - Well name and number;
 - NDIC well file number;
 - American Petroleum Institute (API) number;
 - Legal description of the well's surface location;
 - Target formation or pool name;
 - Legal description of the drilling or spacing unit;
 - Total acres in the drilling or spacing unit; and
 - A copy of the NDIC's approved application for permit to drill.
 - An amended Schedule T-84 must be submitted with a copy of the completion report, recompletion report, or a NDIC spacing order for any applicable changes to the approved application for permit to drill.
- A notification letter titled "Reporting Procedures Pursuant to the Tribal and State Oil and Gas Tax Agreement" will be sent to the well's operator and, when applicable, carbon copied to the well's purchaser(s) of record as indicated on the latest monthly tax reports filed with the State Tax Commissioner for the well. The notification letter will contain the following information:
 - Well name and number;
 - NDIC well file number;
 - American Petroleum Institute (API) number;
 - Legal description of the well's surface location
 - Pool name(s);
 - Legal description of each pool's spacing unit(s);
 - Total acres in the spacing unit - detailed as Trust acres and Non-Trust acres; and
 - Trust Ratio.
 - The computed Trust Lands decimal interest (expressed as an number carried to a precision of eight places) for each pool's spacing unit.
 - The applicable Trust Lands extraction tax rate and applicable well code for each pool's spacing unit:

Trust interests will be reported using a newly created well code "TT" which will reflect 6.5% oil extraction tax rate. If an existing well has qualified for a tax incentive, the rate will be the effective rate at the time of the determination.

Tax rate changes - the State Tax Commissioner, in a separate incentive qualification letter issued to the well's operator, will address reporting procedures and tax rate changes for each pool's spacing unit affected by an applicable tax incentive.

- The pool code to be used for tax reporting the trust interests of each pool's spacing unit:

A 400 series pool code will be assigned to trust interests (i.e., Bakken Tribal Trust will be reported using pool code 451).

- Non-Trust Ratio:

- The computed Non-Trust Lands decimal interest (expressed as a number carried to a precision of eight places) for each pool's spacing unit.
- The applicable Non-Trust Lands extraction tax rate, in effect at the time of the determination, for each pool's spacing unit:

Tax rate changes - the State Tax Commissioner will address reporting procedures and tax rate changes for each pool's spacing unit affected by an applicable tax incentive. This information will be provided in a separate incentive qualification letter issued to the well's operator.

- The pool code to be used for tax reporting the non-trust interests of each pool's spacing unit:

A 300 series pool code will be assigned to non-trust interests (i.e. Bakken Tribal Fee will be reported using pool code 351).

- Border wells located within the boundaries of the FBIR, with spacing unit production from lands outside the FBIR, will include the outside production in the Non-Trust ratio.

- A well operator must submit an amended Schedule T-84 with the appropriate documentation within ten days of any change to the spacing unit of any well subject to the reporting requirements of the Agreement. The State Tax Commissioner will issue a revised notification letter reflecting the updated Trust and Non-Trust ratios and corresponding tax rates that will become effective for the production month following the month in which the State Tax Commissioner receives the correction notice. Failure to submit the required information may result in a twenty-five dollar per day failure to file penalty.
- Beginning with July 2008 production periods (i.e., oil reports due August 25, 2008 and gas reports due September 15, 2008) the purchases or sales from wells located within the FBIR must be reported to the State Tax Commissioner on the T12 and T13 reports. Separate sequence entries must be reported for each API and newly assigned pool code using the established Trust and Non-Trust ratios and corresponding tax rates for the pool's spacing unit.
- Inventory produced prior to July 1, 2008, but purchased or sold on or after July 1, 2008, will be reported using the existing pool codes for the well. Due to the various tax rate issues affecting a well, multiple entries for an API and pool code may be required.

- Reporting and taxation issues relating to production periods prior to July 2008 are not covered by this Agreement and will continue to be subject to the administrative requirements of both the State and Tribal governments.
- The State Tax Commissioner will not be administering subsection D(9) of the Agreement which pertains to TERO and Tribal Application fees. For information regarding TERO fees call (701) 627-3634 or go to ***www.mhatero.com***. For information regarding Tribal Application fees contact the Three Affiliated Tribes at (701) 627-4781.
- System Changes
 - The only system change we will make to fulfill the reporting requirements relates to the Electronic Data Interchange (EDI) reporting.
 - In segment TIA – 8193, the data element length for reporting the pool code in TIA03 will need to be updated to 1/3 (i.e., minimum of 1 / maximum of 3 characters) to allow for the reporting of three digit pool codes (i.e., Bakken Tribal Fee will be reported using pool code 351).

The State Tax Commissioner's web site at ***www.nd.gov/tax/oilgas/*** has the following Agreement information available:

1. A copy of this notice
2. A copy of the Agreement
3. A list of the pool codes to include Tribal codes
4. T12 Oil Report Instructions – Fort Berthold Reservation
5. Schedule T-84 Report
6. Three Affiliated Tribes contact Information

Office of State Tax Commissioner contact information:

600 East Blvd. Ave.
Bismarck, ND 58505-0599

Phone: 701.328.2705
701.328.3657
Email: ***oiltax@nd.gov***
Web site: ***www.nd.gov/tax***

Three Affiliated Tribes contact information:

404 Frontage Road
New Town, ND 58763

Phone: 701.627.4781
Web site: ***www.mhanation.com***

CHAPTER 57-51

OIL AND GAS GROSS PRODUCTION TAX

57-51-01. Definitions. As used in this chapter:

1. "Barrel of oil" means forty-two United States gallons of two hundred thirty-one cubic inches per gallon computed at a temperature of sixty degrees Fahrenheit [158.99 liters computed at a temperature of 15.56 degrees Celsius].
2. "Commissioner" means the state tax commissioner.
3. "Field" means the geographic area underlaid by one or more pools, as defined by the industrial commission.
4. "Gas" means natural gas and casinghead gas.
5. "Oil" means petroleum, crude oil, mineral oil, and casinghead gasoline.
6. "Person" includes partnership, corporation, limited liability company, association, fiduciary, trustee, and any combination of individuals.
7. "Posted price" means the price specified in publicly available posted price bulletins or other public notices, net of any adjustments for quality and location.
8. "Shallow gas" means gas produced from a gas well completed in or producing from a shallow gas zone, as certified to the tax commissioner by the industrial commission.
9. "Shallow gas zone" means a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, from which gas is or may be produced.
10. "Transportation costs" means the costs incurred for transporting oil established in accordance with the first applicable of the following methods:
 - a. Actual costs incurred under the arm's-length contract between the producer and the transporter of oil.
 - b. An applicable common carrier rate established and filed with the North Dakota public service commission, or the appropriate federal jurisdictional agency.
 - c. When no common carrier rate would be applicable, the transportation costs are those reasonable costs associated with the actual operating and maintenance expenses, overhead costs directly attributable and allocable to the operation and maintenance, and either depreciation and a return on undepreciated capital investment, or a cost equal to a return on the investment in the transportation system, as determined by the commissioner.

57-51-02. Gross production tax - Oil. A tax of five percent of the gross value at the well is levied upon all oil produced within North Dakota, less the value of any part thereof, the ownership or right to which is exempt from taxation. The tax levied attaches to the whole production, including the royalty interest.

57-51-02.1. Type of tax. For purposes of interpreting chapter 785 of the 1987 Session Laws, relating to federal land bank taxation and to the taxation of other governmental entities if their immunity from taxation has been waived, the gross production tax is a real property tax on oil-producing and gas-producing mineral estates and interests.

57-51-02.2. Gross production tax - Gas. A gross production tax is levied upon all gas produced within North Dakota except gas that is exempt from taxation. The tax levied must attach to the whole production, including the royalty interest. The tax on gas must be calculated by taking the taxable production in mcf times the gas tax rate.

1. The gas tax rate is four cents times the gas base rate adjustment for each fiscal year as calculated under subsection 2.
2.
 - a. The tax department shall annually determine the gas base rate adjustment and the resulting gas tax rate for each fiscal year beginning on July first.
 - b. The gas base rate adjustment for the fiscal year is a fraction, the numerator of which is the annual average of the gas fuels producer price index, commodity code 05-3, as calculated and published by the United States department of labor, bureau of labor statistics, for the previous calendar year, and the denominator of which is seventy-five and seven-tenths.
 - c. The tax department shall provide the gas base rate adjustment and the gas tax rate for the fiscal year, as determined under this subsection, to affected producers by written notice mailed on or before June first.
 - d. If the index used to determine the gas base rate adjustment is substantially revised, or if the base year for the index is changed, the department by administrative rule shall make appropriate adjustment to the method used to determine the gas base rate adjustment to ensure a result which is reasonably consistent with the result which would have been obtained had the index not been revised or the base year changed.
 - e. If the gas fuels producer price index is discontinued, a comparable index must be adopted by the department by an administrative rule.

57-51-02.3. Valuation of oil - Alternatives - Exceptions. The gross value at the well for oil is the price paid for the oil under an arm's-length contract between the producer and the purchaser less, when applicable, transportation costs associated with moving the oil from the point of production to the point of sale under the contract. In the absence of an arm's-length contract, the gross value at the well for oil is established by the first applicable of the following methods:

1. The price paid under an arm's-length contract, to which the person paying the tax is a party, for the purchase or sale of oil of like kind, character, and quality, in the same field or, if none, in a nearby field, less, when applicable, transportation costs associated with moving the oil from the point of production to the point of sale.
2. The price paid under an arm's-length contract, between parties other than the person paying the tax, for the purchase or sale of oil of like kind, character, and quality, in the same field or, if none, in a nearby field, less, when applicable, transportation costs associated with moving the oil from the point of production to the point of sale.
3. The value determined by consideration of the posted price relevant in valuing oil of like kind, character, and quality, in the same field or, if none, in a nearby field, less, when applicable, adjustments for transportation costs to reflect the differential between the value at the point of production and the value at the location reflected in the posted price.

57-51-02.4. Shallow gas - Gross production tax exemption. Shallow gas produced during the first twenty-four months of production from and after the date of first sales of gas from a well completed or recompleted in a shallow gas zone after June 30, 2003, is exempted from the gross production tax levied under section 57-51-02.2. Gas produced from such a well during

testing prior to well completion or connection to a pipeline is also exempt from the gross production tax.

57-51-03. Gross production tax to be in lieu of other taxes. The payment of the taxes herein imposed must be in full, and in lieu of all ad valorem taxes by the state, counties, cities, towns, townships, school districts, and other municipalities, upon any property rights attached to or inherent in the right to producing oil or gas, upon producing oil or gas leases, upon machinery, appliances, and equipment used in and around any well producing oil or gas and actually used in the operation of such well, and also upon oil and gas produced in the state upon which gross production taxes have been paid, and upon any investment in any such property. Any interest in the land, other than that herein enumerated, must be assessed and taxed as other property within the taxing district in which such property is situated. It is expressly provided that the gross production tax is not in lieu of income taxes nor excise taxes upon the sale of oil and gas products at retail.

57-51-04. Equipment used in production exempt from ad valorem tax. No equipment, material, or property is exempt from the payment of ad valorem tax by reason of the payment of the gross production tax as herein provided except such equipment, machinery, tools, material, or property as is actually necessary and being used at the site of a producing well in the production of oil or gas; and it is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, roominghouses, and other buildings, nor any equipment or material used in connection therewith is exempt from ad valorem tax, nor are drilling rigs exempt. The real property is not exempt under this chapter except to the extent of the mineral interests therein.

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed.

1. The gross production tax on oil or gas, as herein provided, must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.
2. On oil or gas produced and sold, the gross production tax thereon must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, that in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.
3. Gas when produced and utilized in any manner, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon, must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

57-51-05.1. Reclamation of oil - Refiner to pay tax - Reports required. On all oil reclaimed from tank bottoms, pit oil, and saltwater, the gross production tax shall be paid by the operator of the reclaiming plant, unless taxes have already been paid thereon. If tank bottom or pit oil material is removed from the lease by the operator of a treatment plant, the gross value of oil reclaimed from the material is the purchase price paid by the operator of the treatment plant for the material from which the oil is reclaimed. If the operator has not paid a cash price for the material, the oil reclaimed has no value at the well. Every person, firm, association, corporation, or limited liability company engaged in the sale, purchasing, and refining of tank bottoms, pit oil, and saltwater shall report to the commissioner, upon forms prescribed by the commissioner, information necessary to the enforcement of this section.

57-51-06. Tax paid to commissioner - Statements by person paying tax - Statements by producer.

1. The tax herein provided for must be paid to the commissioner and the person paying the tax shall file with the commissioner at the time the tax is required to be paid a statement on forms prescribed by the commissioner. The commissioner may require a purchaser to file the statement or report by electronic data interchange or other electronic media.
2. Any person engaged in the production, within this state, of oil shall on or before the twenty-fifth day of the next succeeding month after production, and any person engaged in the production of gas within this state shall, on or before the fifteenth of the second succeeding month after production, file with the commissioner a statement upon forms prescribed by the commissioner. The commissioner may waive the requirement that a producer file a well production report. A waiver by the commissioner of the requirement to file a well production report does not release the producer from any obligation to remit the tax under this chapter. A waiver does not release the producer from any duty or obligation under section 57-51-07 to maintain production records for inspection by the commissioner.
3. Reports from either the purchaser or producer, as the case may be, are delinquent after the last day fixed for their filing, and every person required to file a report is subject to a penalty of twenty-five dollars per day for each property upon which the person fails or refuses to file the reports. The penalties herein prescribed are for failure to file reports and are in addition to the penalty imposed by section 57-51-10 and likewise constitute a lien against the assets of the person failing or refusing to file the reports. The penalties prescribed under this section must be collected in the same manner as gross production taxes and must be apportioned as other gross production tax penalties; provided, that the commissioner may, for good cause shown, waive any penalties imposed under this section. When royalty is claimed to be exempt from taxation by law, the facts on which the claims of exemption are based and other relevant information must be furnished when requested by the commissioner.
4. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

57-51-07. Powers of commissioner. The commissioner has power to require any person engaged in such production and the agent or employee of such person, or purchaser of such oil or gas, or the owner of any royalty interest therein to furnish any additional information the commissioner deems to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records, and files of such person, and has power to conduct

hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any oil or gas location, or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

57-51-08. State board of equalization may adjust rate of gross production tax to equal the general ad valorem tax. Repealed by S.L. 1981, ch. 611, § 2.

57-51-09. Commissioner shall compute tax on incorrect returns.

1. The commissioner may ascertain and determine whether a return required to be filed with the commissioner is a true and correct return of the gross products, and of the value thereof, of that person. If any person has made an untrue or incorrect return of the gross production or value thereof, as hereinbefore required, or has failed or refused to make a return, the commissioner shall under rules adopted by the commissioner, ascertain the correct amount of either, and compute the tax.
2. The time to assess additional tax found due is three years after the due date of the original return or three years after the original return is filed, whichever period expires later. However, if there is a change in tax liability on any return by an amount in excess of twenty-five percent of the amount of tax liability reported on a return, any additional tax determined to be due may be assessed anytime within six years after the due date of the return or six years after the return was filed, whichever period expired later.
3. If a taxpayer files an amended return, the tax commissioner has two years after the return is filed to audit the return and assess any additional tax attributable to the changes or corrections even though other time periods prescribed in this section for the assessment of tax may have expired. The provisions of this section do not limit or restrict any other time period prescribed in this section for the assessment of tax that has not expired as of the end of the two-year period prescribed in this section.
4. For periods in which the tax commissioner has waived the requirement that a producer file a well production report required under section 57-51-06, the tax commissioner has three years after the due date of the purchaser's return or three years after the purchaser's return is filed, whichever period expires later, to assess the producer for additional tax found due. However, if there is a change in tax liability on the purchaser's return by an amount in excess of twenty-five percent of the amount of tax liability reported on a purchaser's return, any additional tax determined to be due may be assessed from the producer anytime within six years after the due date of the purchaser's return or six years after the purchaser's return was filed, whichever period expires later.
5. Any person who consents to an extension of time for assessment of tax must be presumed to have consented to a similar extension for refund.

57-51-10. Proceedings and penalty on delinquency. When the tax provided for in this chapter becomes delinquent, there is hereby imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such delinquency continues, excepting the month within which such tax became due, which must be collected in the manner hereinafter provided. If any person fails to make any report herein required, within the time prescribed by law for such report, it is the duty of the commissioner to examine the books, records, and files of such person to ascertain the amount and value of such production to compute the tax thereon as provided herein, and the commissioner shall add thereto the amount of any penalties accrued thereon. The commissioner, for good cause shown, may waive the penalty or the interest provided by this section.

57-51-11. Lien for tax - Preservation of lien - Satisfaction of lien.

1. The tax, penalty, and interest provided for in this chapter is, at all times, a first and paramount lien against the purchaser's or producer's property as the case may be, both real and personal. The provisions of this chapter making the purchaser liable to pay the tax and requiring the producer to pay the royalty owner's tax do not release the producer or purchaser from that liability. If the tax, penalty, and interest is not paid, it may be recovered at the suit of the state, upon relation to the commissioner, in any court of competent jurisdiction of the county where any such property, assets, and effects are located.
2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - d. The date and time the notice of lien was indexed.
 - e. The amount of the lien.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner with a recorder before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

3. Upon the payment of tax, penalty, and interest, if applicable, or a penalty assessed under section 57-51-06, as to which the commissioner has indexed a notice in the central indexing system, the commissioner shall index a satisfaction of the lien in the central indexing system.
4. The commissioner is exempt from the payment of the fees otherwise provided for by law for the indexing of the lien or satisfaction.

57-51-12. Delinquent taxes - Sale of property. When any tax provided for in this chapter becomes delinquent, the commissioner shall issue warrants directed to the sheriff of any county wherein the same, or any part thereof accrued, for the collection of said tax, interest, and penalty; and the sheriff to whom said warrant is directed, shall proceed to levy upon the property, assets, and effects of the person liable for such tax, and shall sell the same and make return thereof, as upon execution. The state of North Dakota, through the commissioner, is authorized to make bids at any such sale to the amount of tax, penalty, and costs accrued.

57-51-13. False report deemed perjury. Repealed by S.L. 1975, ch. 106, § 673.

57-51-14. Duties of commissioner and state treasurer. It is the duty of the commissioner to deposit with the state treasurer all moneys collected by the commissioner under this chapter and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, no less than quarterly, shall pay over to the county treasurers and city auditors of the several counties the moneys to which they are entitled hereunder.

57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding six million dollars per biennium, including any amounts otherwise appropriated for oil and gas impact grants for the biennium by the legislative assembly, and who shall credit the remaining revenues to the state general fund.
2. The first one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated to that county. The second one million dollars of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county must be allocated seventy-five percent to that county and twenty-five percent to the state general fund. The third one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county must be allocated twenty-five percent to that county and seventy-five percent to the state general fund. However, the amount to which each county is entitled pursuant to this subsection must be limited based upon the population of the county according to the last official decennial federal census as follows:
 - a. Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for each fiscal year; however, a county may receive up to four million nine hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.
 - b. Counties having a population of over three thousand but less than six thousand shall receive no more than four million one hundred thousand dollars for each fiscal year; however, a county may receive up to five million one hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.
 - c. Counties having a population of six thousand or more shall receive no more than four million six hundred thousand dollars for each fiscal year; however, a county may receive up to five million six hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:
 - a. Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
 - b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
 - c. The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:
 - (1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
 - (2) Four hundred twenty.

57-51-16. Distribution of proceeds in certain cases. If gross production tax is paid to the commissioner and the reports accompanying such tax are insufficient to enable the commissioner to determine the source, by county, from which it is produced, the state treasurer shall allocate those revenues under this section. In the first distribution to counties under section 57-51-15 which occurs after June gross production tax revenues are received by the state treasurer for allocation, the revenue under this section must be allocated among counties in the same proportions that revenue was allocated among counties that received distributions under

section 57-51-15 during the year ended June thirtieth. Revenue received by the county under this section must be allocated within the county as provided in subsection 3 of section 57-51-15.

57-51-17. Reports by carriers of oil and gas transported - Reports of refiners - Reports by persons purchasing or storing oil. It is the duty of every railroad company, pipeline company, or transportation company to furnish to the commissioner, upon request, any and all information relative to the transportation of oil or gas subject to gross production tax, that may be required to properly enforce the provisions of this chapter. The commissioner may require any pipeline or transportation company to install suitable measuring devices to enable the company to provide information concerning the quantity of oil or gas transported within, into, out of, or across the state of North Dakota. It is the duty of every person engaged in the operation of a refinery for the processing of oil or gas, in the state of North Dakota, to furnish to the commissioner, upon request, any and all information, relative to oil or gas subject to gross production tax that has been processed by it that may be required to properly enforce the provisions of this chapter. It is the duty of every person engaged in the purchase or storing of oil or gas subject to gross production tax in the state of North Dakota to furnish to the commissioner, upon request, showing the amount of oil or gas in storage, and giving, along with information required, the location, identity, character, and capacity of the storage receptacle in which the oil or gas is stored. Information requested under this section must be provided within forty-five days of the request.

The failure of any person to comply with the provisions of this section makes that person subject to a penalty of twenty-five dollars for each day that person fails or refuses to furnish the information or comply with the provisions of this chapter. Any penalty may be recovered at the suit of the state, on relation of the commissioner. The penalty so collected must be apportioned to the state general fund. The commissioner may, for good cause shown, excuse any or all penalties imposed under this section.

57-51-18. Payment where ownership is in dispute - Assignment as security.
Repealed by S.L. 1991, ch. 689, § 8.

57-51-19. Claim for credit or refund. In all cases of overpayment, duplicate payment, or payment made in error, the commissioner may issue a certificate stating therein the facts and the amount of the refund to which the taxpayer may be entitled. Upon presentation of the certificate to the office of management and budget, a warrant shall be issued to the taxpayer for the purpose of refunding any overpayment, duplicate payment, or payment made in error out of the unapportioned gross production tax in the state treasury and a pro rata share thereof must be charged against the county entitled to share in the tax. Interest arising from refunds of overpayments, duplicate payments, and erroneous payments must be allowed and paid at the rate of ten percent per annum and accrues for payment from sixty days after the due date of the return or after the return was filed or after the tax was fully paid, whichever comes later.

A taxpayer may file a claim for credit or refund of an overpayment of tax within three years of the due date of the return or three years after the return was filed. However, if there is a change in tax liability on any return by an amount in excess of twenty-five percent of the amount of tax liability reported on a return, a claim for refund of tax may be filed within six years after the due date of the return or six years after the return was filed, whichever period expires last.

57-51-19.1. Minimum refunds and collections.

1. A refund may not be made by the tax commissioner to any taxpayer unless the amount to be refunded, including interest, is at least five dollars. The tax commissioner shall transfer any amount that is not refunded to a taxpayer under this subsection to the state treasurer for deposit in the same manner as other revenue under this chapter.
2. A remittance of tax need not be made and any assessment or collection of tax may not be made unless the amount is at least five dollars, including penalties and interest.

57-51-20. Statements as to tax on settlements - Acceptance of deductions.
Repealed by S.L. 1989, ch. 732, § 5.

57-51-21. Rules and regulations - Bond - Reports - Actions. The commissioner may prescribe all necessary rules for making and filing of all reports required hereunder and otherwise necessary to the enforcement of this chapter. The commissioner may require a sufficient bond from any person charged with the making and filing of reports and the payment of the taxes imposed under this chapter. The bond must run to the state of North Dakota and must be conditioned upon the making and filing of reports as required by law, upon compliance with the rules and regulations of the commissioner, and for the prompt payment, by the principal therein, of all taxes justly due the state under this chapter. When any reports required have not been filed, or may be insufficient to furnish all the information required by the commissioner, the commissioner shall institute, in the name of the state of North Dakota upon relation of the commissioner, any necessary action or proceedings in the courts having jurisdiction, to enjoin such person from continuing operations until such reports have been filed as required, and in all proper cases, injunction must issue without bond from the state of North Dakota. Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated, or concealed, a receiver must be appointed at the suit of the state.

57-51-22. Penalty. Any person intentionally violating any of the provisions of this chapter is guilty of a class A misdemeanor.

57-51-23. Application of chapter. Omitted.

CHAPTER 57-51.1

OIL EXTRACTION TAX

57-51.1-01. Definitions for oil extraction tax. For the purposes of the oil extraction tax law, the following words and terms shall have the meaning ascribed to them in this section:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.
3. "Horizontal reentry well" means a well that was not initially drilled and completed as a horizontal well, including any well initially plugged and abandoned as a dry hole, which is reentered and recompleted as a horizontal well.
4. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].
5. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.
6. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.
7. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have achieved for six consecutive months an average production level of at least twenty-five percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 5 of section 57-51.1-03.
8. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:
 - a. Miscible fluid displacement.
 - b. Steam drive injection.

- c. Microemulsion.
- d. In situ combustion.
- e. Polymer augmented water flooding.
- f. Cyclic steam injection.
- g. Alkaline flooding.
- h. Carbonated water flooding.
- i. Immiscible carbon dioxide displacement.
- j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have achieved for at least one month a production level of at least fifteen percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 5 of section 57-51.1-03.

- 9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.
- 10. "Stripper well property" means a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.
- 11. "Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By December thirty-first of each year, the tax commissioner shall compute an indexed trigger price by applying to the current trigger price the rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.
- 12. "Two-year inactive well" means any well certified by the industrial commission that did not produce oil in more than one month in any consecutive twenty-four-month period before being recompleted or otherwise returned to production after July 31, 1995. A well that has never produced oil, a dry hole, and a plugged and abandoned well are eligible for status as a two-year inactive well.

57-51.1-02. Imposition of oil extraction tax. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil.

The rate of tax is six and one-half percent of the gross value at the well of the oil extracted, except that the rate of tax is four percent of the gross value at the well of the oil extracted in the following situations:

1. For oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under section 57-51.1-03;
2. For oil produced from a secondary or tertiary recovery project that was certified as qualifying by the industrial commission before July 1, 1991;
3. For oil that does not qualify as incremental oil but is produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991;
4. For incremental oil produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and which production is not otherwise exempt under section 57-51.1-03; or
5. For oil produced from a well that receives an exemption pursuant to subsection 4 of section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt under section 57-51.1-03.

However, if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period, then the rate of tax on oil extracted from all taxable wells is six and one-half percent of the gross value at the well of the oil extracted until the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period, in which case the rate of tax reverts to four percent of the gross value at the well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5.

57-51.1-03. Exemptions from oil extraction tax. The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production

is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

5.
 - a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
 - b. The incremental production from a tertiary recovery project which has been certified as a qualified project by the industrial commission subsequent to June 30, 1991, is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins.
 - c. For purposes of this subsection, incremental production is defined in the following manner:
 - (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
 - (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
 - (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the

unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.

- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.

- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
8. The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:
 - a. The well is located within the boundaries of an Indian reservation;
 - b. The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or
 - c. The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.
9. The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

57-51.1-03.1. Stripper well, new well, work-over, and secondary or tertiary project certification for tax exemption or rate reduction - Filing requirement. To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's qualification period.
2. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 and a rate reduction on production from a new well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after a new well is completed.
3. To receive, from the first day of eligibility, a tax exemption under subsection 4 of section 57-51.1-03 and a rate reduction for a work-over well under section

57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the work-over project is completed.

4. To receive, from the first day of eligibility, a tax exemption under subsection 5 of section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within the following time periods:
 - a. For a tax exemption, within eighteen months after the month in which the first incremental oil was produced.
 - b. For a tax rate reduction, within eighteen months after the end of the period qualifying the project for the rate reduction.
5. To receive, from the first day of eligibility, a tax exemption or the reduction on production for which any other tax exemption or rate reduction may apply, the industrial commission's certification must be submitted to the tax commissioner within eighteen months of the completion, recompletion, or other qualifying date.
6. To receive, from the first day of eligibility, a tax exemption under subsection 6 of section 57-51.1-03 on production from a two-year inactive well, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the two-year inactive well's qualification period.

If the industrial commission's certification is not submitted to the tax commissioner within the eighteen-month period provided in this section, then the exemption or rate reduction does not apply for the production periods in which the certification is not on file with the tax commissioner. When the industrial commission's certification is submitted to the tax commissioner after the eighteen-month period, the tax exemption or rate reduction applies to prospective production periods only and the exemption or rate reduction is effective the first day of the month in which the certification is received by the tax commissioner.

57-51.1-04. Authority of tax commissioner to accept production reports computed on a property basis. Repealed by S.L. 1989, ch. 732, § 5.

57-51.1-05. Administration of oil extraction tax. For the purposes of administering the tax imposed by section 57-51.1-02, the provisions of chapter 57-51 pertaining to the administration of the oil and gas gross production tax law not in conflict with the provisions of this chapter, including but not limited to the provisions of that chapter relating to the filing of returns, deduction of the tax by the purchaser or producer in making settlement with any owner of the oil, payment of the tax and interest and penalties thereon, refunds, attachment of liens for failure to pay the tax, and civil and criminal penalties for failure to comply with the provisions of that chapter, govern the administration of the tax imposed by section 57-51.1-02.

57-51.1-06. Oil extraction tax development fund established. The tax imposed by section 57-51.1-02 must be paid to the state treasurer when collected by the state tax commissioner and must be credited to a special fund in the state treasury, to be known as the oil extraction tax development fund. The moneys accumulated in such fund must be allocated as provided in this chapter and the legislative assembly shall make any appropriation of money that may be necessary to accomplish the purposes of this chapter.

57-51.1-07. Allocation of moneys in oil extraction tax development fund. Moneys deposited in the oil extraction tax development fund must be apportioned quarterly by the state treasurer as follows:

1. Twenty percent must be allocated and credited to the sinking fund established for payment of the state of North Dakota water development bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds

must be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund must be established in the state treasury and the funds therein must be deposited and invested as are other state funds to earn the maximum amount permitted by law which income must be deposited in the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and are available to:

- a. The state water commission for planning for and construction of water-related projects, including rural water systems. These water-related projects must be those which the state water commission has the authority to undertake and construct pursuant to chapter 61-02; and
 - b. The industrial commission for the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.
2. Twenty percent must be allocated as provided in section 24 of article X of the Constitution of North Dakota.
 3. Sixty percent must be allocated and credited to the state's general fund for general state purposes.

57-51.1-07.1. Resources trust fund - Procedure for review of applications for financial assistance for water-related projects.

1. A political subdivision or rural water system seeking loans, grants, or other financial assistance by legislative appropriation from the resources trust fund for a water-related project or study must submit the proposed water-related project or study to the state water commission for review. The commission may require the political subdivision or rural water system to supply information as it considers necessary to review the request. After consideration and review of the proposed water-related project or study, the state water commission may conduct or it may require the project sponsor to conduct a preliminary study for the proposed project or study. The preliminary study must be conducted in accordance with criteria established pursuant to subsection 3.
2. Every legislative bill appropriating moneys from the resources trust fund pursuant to subsection 1 must be accompanied by a state water commission report, which must include:
 - a. A summary of the engineering feasibility study of the proposed water project.
 - b. Statements concerning the proposed water project as it relates to the comprehensive state water plan of the state water commission.
 - c. The need for the proposed water project, including any alternative projects which would satisfy such need.
 - d. The availability of other sources of funding or financial assistance for such water project.
 - e. A recommendation as to whether or not the proposed water project should receive financial assistance through legislative appropriation from the resources trust fund.

- f. Other items as deemed necessary or appropriate by the state water commission.
3. The state water commission shall adopt rules for governing the review and recommendation of proposed water projects for which financial assistance by legislative appropriation from the resources trust fund is being sought under this section.

57-51.1-07.2. (Contingent repeal - See note) Permanent oil tax trust fund - Deposits - Interest - Adjustment of distribution formula. All revenue deposited in the general fund during a biennium derived from taxes imposed on oil and gas under chapters 57-51 and 57-51.1 which exceeds seventy-one million dollars must be transferred by the state treasurer to a special fund in the state treasury known as the permanent oil tax trust fund. The state treasurer shall transfer interest earnings of the permanent oil tax trust fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds vote of the members elected to each house of the legislative assembly.

If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in this section by the same percentage increase or decrease in the amount of revenue allocable to the general fund after the change in the allocation formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is not increased or decreased merely because of changes in the distribution formulas.

57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation. There is established a special fund in the state treasury to be known as the oil and gas research fund. Two percent of the state's share of the oil and gas gross production tax and oil extraction tax revenues, up to three million dollars per biennium, must be deposited into the oil and gas research fund. The state treasurer shall transfer into the oil and gas research fund two percent of the state's share of the oil and gas production tax and the oil extraction tax revenues for the previous three months. All moneys deposited in the oil and gas research fund and interest on all such moneys are appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.

57-51.1-07.4. Separate allocation of state share of collections from reservation development. Notwithstanding any other provision of law, the state treasurer shall transfer to the permanent oil tax trust fund the first seven hundred thousand dollars of the state's share of tax revenues under this chapter from oil produced from wells within the exterior boundaries of the Fort Berthold Reservation drilled and completed after June 30, 2007.

57-51.1-08. Intent. It is the intent of the electors of the state of North Dakota and the legislative assembly to fund public elementary and secondary education in North Dakota at the level of seventy percent of the educational cost per student, as determined under the provisions of chapter 15.1-27, to provide funds for the developmental center at westwood park, Grafton, and to provide for water development and utilization and energy conservation and development programs by enactment of an excise tax to be known as the "oil extraction tax" and enactment of an income tax credit.

The legislative assembly has determined that many areas within the state of North Dakota do not have adequate water supplies for municipal, domestic, livestock, light industrial, and other uses. However, adequate water supplies are essential for the social and economic stability of municipalities and rural areas. It is, therefore, declared to be in the best interest of the people of the state of North Dakota to establish a resources trust fund to be used to construct, or assist in the construction of, multiple-use water supply facilities. The legislative assembly also recognizes that appropriate planning to meet current and long-range water needs for the benefit of all of the citizens of the state of North Dakota is a matter of concern and high priority. The legislative assembly further intends that revenues generated by use of any facilities constructed,

in whole or in part, with financing from the resources trust fund shall be deposited in the resources trust fund.

CHAPTER 57-51.2

THREE AFFILIATED TRIBES OIL AND GAS AGREEMENT

57-51.2-01. (Contingent expiration date - See note) Authority to enter agreements.

The governor, in consultation with the tax commissioner, may enter agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation.

57-51.2-02. (Contingent expiration date - See note) Agreement requirements. An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the Fort Berthold Reservation.
2. The state's oil and gas gross production tax under chapter 57-51 must apply to all wells located within the Fort Berthold Reservation.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the Fort Berthold Reservation may not exceed six and one-half percent but may be reduced through negotiation between the governor and the Three Affiliated Tribes.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the Fort Berthold Reservation except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas production taxes on the Fort Berthold Reservation must be as follows:
 - a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state.
 - b. All other production. The tribe must receive twenty percent of the total oil and gas gross production taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation in lieu of the application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state must receive the remainder.
 - c. The state's share of the revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapters 57-51 and 57-51.1.
6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.
7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on future production of oil and gas on the Fort Berthold Reservation during the term of the agreement.
8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.

9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.
11. The federal district court for the western division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes.

57-51.2-03. (Contingent expiration date - See note) Statutory inconsistencies superseded. This chapter supersedes any inconsistent provisions of chapters 57-51 and 57-51.1 and any inconsistent provisions of state law relating to regulatory provisions and state law relating to oil and gas exploration and production and administration of those provisions.

57-51.2-04. (Contingent expiration date - See note) Reports. After entering an agreement under this chapter, the governor shall file a report with the legislative council describing the agreement's negotiations and terms and thereafter shall file biennial reports with the legislative council describing the agreement's implementation and any difficulties in its implementation.

57-51.2-05. (Contingent expiration date - See note) Inapplicability of chapter 54-40.2. Chapter 54-40.2 does not apply to any agreement entered under chapter 57-51.2.